

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-007-00015M

Parcel No. 8813-04-276-008

HCR Manor Care Properties, LLC,

Appellant,

v.

Black Hawk County Board of Review,

Appellee.

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**Introduction**

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on November 25, 2015. Jason Miller of Property Valuation Services, Overland Park, Kansas represented HCR Manor Care Properties, LLC (HCR Manor) and requested a written consideration. County Assessor TJ Koenigsfeld represented the Black Hawk County Board of Review.

HCR Manor is the owner of a multi-residential property located at 201 W Ridgeway Avenue, Waterloo. The property is a one-story, brick nursing home built in 1965 with additions in 1992 and 2004. Condition ratings for the different additions range from below normal to above normal. It has 32,020 square feet of gross building area (GBA). The property has ninety-seven licensed beds. There is also a 396 square-foot detached garage, a shed, and 30,000 square feet of asphalt paving. The site is 2.812 acres.

The property's January 1, 2015, assessment was \$2,415,380, allocated as \$298,030 in land value and \$2,117,350 to improvement value. HCR Manor's protest to the Board of Review claimed the assessment is not equitable as compared with assessments of other like property; and that the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(a) and (b).

The Board of Review denied the petition.

HCR Manor renewed its claims to this Board and asserted the subject property's assessment should be \$2,081,300.

### **Findings of Fact**

Jason Miller submitted two properties in support of an equity claim, summarized in the following chart.

|                            | Assessed Value | Gross Building Area | AV/SF   | Year Built |
|----------------------------|----------------|---------------------|---------|------------|
| Subject                    | \$2,415,380    | 32,020              | \$75.43 | 1965       |
| 2950 W Shalus Rd, Waterloo | \$3,040,390    | 48,427              | \$62.78 | 1976       |
| 1728 W 8th St, Cedar Falls | \$1,846,490    | 27,102              | \$68.13 | 1978       |

Other than the data presented in the chart, Miller did not provide any other information about these properties. There is no sale information for either of the properties, which is required to develop an assessment/sales ratio.

Miller notes the average and median assessed value per-square-foot is \$65.46, and based on this asserts the correct market value is \$2,095,935.

Black Hawk County TJ Koenigsfeld submitted a letter on behalf of the Board of Review. Koenigsfeld states the two equity comparables Miller submitted differ in type of construction and location. He reports the subject's construction (brick/block on steel) has higher associated costs than the comparable properties, which are brick veneer on frame. Additionally, the subject is in a superior location resulting in higher land values compared to these properties.

Miller asserts the property at 2950 W Shalus Road is similar to the subject, but has a lower assessed value per-square-foot. Koenigsfeld notes that the price-per-square-foot of this property is lower because it includes common facilities, a retail store, greenhouse, and a metal warehouse.

In support of its claim the subject property is assessed for more than its market value, Miller submitted an active listing and three sales of properties he considered comparable to the subject. The following chart is a summary of the sales.

|                                    | Sale Date | List/Sale Price | Gross Building Area (GBA) | SP/SF   | Year Built |
|------------------------------------|-----------|-----------------|---------------------------|---------|------------|
| Subject                            | N/A       | N/A             | 32,020                    | N/A     | 1965       |
| 315 Walnut St, Waterloo            | Listing   | \$2,200,000     | 87,276                    | \$25.21 | 1922       |
| 1 Pennsylvania, Ottumwa            | May-14    | \$10,713,500    | 162,712                   | \$65.84 | 2005       |
| 1600 McPherson Ave, Council Bluffs | Dec-13    | \$2,150,000     | 56,938                    | \$37.76 | 1972       |
| 2730 Crow Creek Rd, Bettendorf     | Nov-12    | \$1,993,500     | 30,726                    | \$64.88 | 1976       |

Along with the chart, Miller submitted a one-page listing sheet for 315 Walnut Street, 1600 McPherson Avenue, and 2730 Crow Creek Road. No listing sheet for 1 Pennsylvania was submitted.

He also submitted a listing sheet for a property at 4715 Sullivan Slough Road, Burlington; however, this property was not included in his analysis. It has 9600 square feet of building area and a list price of \$750,000. Based on the size of the property, we do not find this sale to be comparable to the subject.

Miller did not adjust the sales for differences between them and the subject property. Moreover, there is no information in the record to determine if they were normal, arms-length transactions or offered similar condition, quality, and marketability to the subject property.

Miller notes the average sale price of the comparable properties is \$48 per-square-foot and the median sale price is \$51 per-square-foot. He asserts the subject property's correct value is \$65 per-square-foot, or \$2,081,300. He does not explain how he arrived at this conclusion based on the data presented.

Koenigsfeld provided comment on the only Black Hawk County sale, 315 Walnut Street. He notes this property is located in a blighted area of East Waterloo compared to the subject's location in a prominent neighborhood near a neighborhood shopping center and newer Walgreens. Moreover, it is a cooperative and priced as an apartment building.

## Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those

properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

HCR Manor submitted two properties it considered comparable for an equity analysis. However, it is unknown if they had recently sold and no other opinion of their market value was submitted; therefore, the evidence is not sufficient to determine an assessment/sales ratio using these properties. HRC Manor did not assert the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. For these reasons, HCR Manor failed to show its property is inequitably assessed as compared to like properties.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). HCR Manor submitted an active listing and three sales it considered comparable to the subject property. However, the sales are unadjusted and there is no information in the record to determine if they were arms-length, normal transactions. We find HCR Manor failed to submit sufficient evidence the subject property’s assessment is for more than authorized by law.

## Order

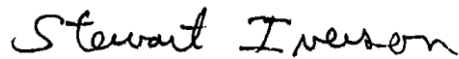
IT IS THEREFORE ORDERED that the Black Hawk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 23rd day of December, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Jason Miller

TJ Koenigsfeld